

SEND

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - EASTERN DIVISION

PLAINTIFF,	)	Case No. CASE NUMBER
	)	
Plaintiff,	)	STANDING ORDER
	)	
v.	)	
	)	
DEFENDANT,	)	
	)	
Defendants.	)	

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**READ THIS ORDER CAREFULLY. IT CONTROLS THE CASE  
AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

This action has been assigned to the calendar of Stephen G. Larson, United States Magistrate Judge. Both the Court and the attorneys bear responsibility for the progress of litigation in the Federal Courts. To secure the just, speedy, and inexpensive determination of every action, Fed. R. Civ. P. 1, all counsel are ordered to familiarize themselves with the Federal Rules of Civil Procedure and the Local Rules of the Central District of California.

IT IS HEREBY ORDERED:

1           **1.     Service of the Complaint:** The Plaintiff shall promptly serve the Complaint  
2 in accordance with Fed. R. Civ. P. 4 and file the proofs of service pursuant to Local Rule  
3 5-3.1.

4           **2.     Presence of Lead Counsel:** Lead trial counsel should attend all proceedings  
5 before this Court, including all status and settlement conferences.

6           **3.     Discovery:**

7           **(a)** Unless there is a likelihood that upon motion by a party the Court would order  
8 that any or all discovery is premature, it is advisable for counsel to begin to conduct  
9 discovery actively before the Scheduling Conference. At the very least, the parties shall  
10 comply fully with the letter and spirit of Fed. R. Civ. P. 26(a) and thereby obtain and  
11 produce most of what would be produced in the early stage of discovery, because at the  
12 Scheduling Conference the Court will impose tight deadlines to complete discovery.

13           **(b)** If expert witnesses are to be called at trial, the parties shall designate experts to  
14 be called at trial and provide reports required by Fed. R. Civ. P. 26(a)(2)(B), not later than  
15 eight weeks prior to the discovery cutoff date. Rebuttal expert witnesses shall be designated  
16 and reports provided as required by Fed. R. Civ. P. 26(a)(2)(B), not later than five weeks  
17 prior to the discovery cutoff date. Failure to timely comply with this deadline may result in  
18 the expert being excluded at trial as a witness.

19           **4.     Motions:**

20           **(a)     Time for Filing and Hearing Motions:** Motions shall be filed in  
21 accordance with Local Rules 6-1 and 7-2, etc.<sup>1</sup> This Court hears motions on **Mondays,**  
22 **commencing at 3:00 p.m. No supplemental brief shall be filed without prior leave of**  
23 **Court.** Conformed courtesy copies of **opposition and reply papers** shall be delivered to  
24 the courtesy box on the wall outside the entrance to Courtroom No. 1, located on the Second  
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26           <sup>1</sup> Among other things, Local Rule 7-3 requires counsel to engage in a pre-filing  
27 conference “to discuss thoroughly . . . the substance of the contemplated motion and any potential  
28 resolution.” Counsel should discuss the issues sufficiently so that if a motion is still necessary, the  
briefing may be directed to those substantive issues requiring resolution by the Court. Counsel  
should resolve minor procedural or other nonsubstantive matters during the conference.

1 Floor of the U.S. Courthouse, 3470 Twelfth Street, Riverside, California, **by 4:00 p.m. on**  
2 **the date due.** Many motions to dismiss or to strike could be avoided if the parties confer in  
3 good faith (as they are required to do under L.R. 7-3), especially for perceived defects in a  
4 complaint, answer or counterclaim which could be corrected by amendment. See Chang v.  
5 Chen, 80 F.3d 1293, 1296 (9th Cir. 1996) (where a motion to dismiss is granted, a district  
6 court should provide leave to amend unless it is clear that the complaint could not be saved  
7 by *any* amendment). Moreover, a party has the right to amend his complaint “once as a  
8 matter of course at any time before a responsive pleading is served.” Fed. R. Civ. P. 15(a).  
9 A 12(b)(6) motion is not a responsive pleading and therefore plaintiff might have a right to  
10 amend. See Nolen v. Fitzharris, 450 F.2d 958, 958-59 (9th Cir. 1971); St. Michael’s  
11 Convalescent Hospital v. California, 643 F.2d 1369, 1374 (9th Cir. 1981). And even where  
12 a party has amended his Complaint once or a responsive pleading has been served, the  
13 Federal Rules provide that leave to amend should be “freely given when justice so requires.”  
14 F.R.Civ.P. 15(a). The Ninth Circuit requires that this policy favoring amendment be applied  
15 with “extreme liberality.” Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079  
16 (9th Cir. 1990). These principles require that counsel for the plaintiff should carefully  
17 evaluate the defendant’s contentions as to the deficiencies in the complaint and in many  
18 instances, the moving party should agree to any amendment that would cure a curable  
19 defect.

20 In the unlikely event that motions under Fed. R. Civ. P. 12 challenging pleadings are  
21 filed after the Rule 16 Scheduling Conference, the moving party shall attach a copy of the  
22 challenged pleading to the Memorandum of Points and Authorities in support of the motion.  
23 The foregoing provisions apply as well to motions to dismiss a counterclaim, answer or  
24 affirmative defense, which a plaintiff might file.

25 **(b) Length and Format of Motion Papers: Memoranda of Points**  
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27  
28

1 **and Authorities in support of or in opposition to motions shall not exceed 25 pages.**  
2 **Replies shall not exceed 12 pages.** Only in rare instances and for good cause shown will the  
3 Court grant an application to extend these page limitations.

4 **Typeface shall comply with Local Rule 11-3.1.1. NOTE: If Times Roman font is**  
5 **used, the size must be no less than 14; if Courier is used, the size must be no less than**  
6 **12.** Footnotes shall be in typeface no less than one size smaller than text size and shall be  
7 used sparingly.

8 Filings which do not conform to the Local Rules and this Order will not be  
9 considered.

10 (c) **Citations to Case Law:** Citations to case law **must** identify not only  
11 the case being cited, but the specific page being referenced. Certain kinds of authority are  
12 considered more useful - or authoritative - than others. If more than one authority is cited in  
13 support of a proposition, these supporting authorities are to be listed such that the more  
14 authoritative ones appear first.

15 (d) **Citations to Other Sources:** Counsel are reminded that the basic  
16 purpose of a legal citation is to allow the reader to locate a cited source accurately and  
17 efficiently. Accordingly, statutory references should identify, with specificity, which  
18 sections and subsections are being referenced (e.g., Jurisdiction over this cause of action  
19 may appropriately be found in 47 U.S.C. § 33, which grants the district courts jurisdiction  
20 over all offenses of the Submarine Cable Act, whether the infraction occurred within the  
21 territorial waters of the United States or on board a vessel of the United States outside said  
22 waters). Statutory references which do not indicate specifically which section and  
23 subsection are being referred to (e.g., Plaintiffs allege conduct in violation of the Federal  
24 Electronic Communication Privacy Act, 18 U.S.C. § 2511, et seq.) are to be **avoided**.  
25 Citations to treatises, manuals, and other materials should similarly include the volume and  
26 the section being referenced.

27 (e) **Courtesy Copies:** Counsel shall deliver a conformed courtesy copy  
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1 of all **opposition and reply** papers in motion matters to the courtesy box on the wall outside  
2 the entrance to Courtroom No. 1, located on the Second Floor of the U.S. Courthouse, 3470  
3 Twelfth Street, Riverside, California, **by 4:00 p.m. on the date due.**

4           **5.     Proposed Orders:** Each party filing or opposing a motion or seeking  
5 the determination of any matter shall serve and lodge a Proposed Order setting forth the  
6 relief or action sought and a brief statement of the rationale for the decision with appropriate  
7 citations. If the Proposed Order exceeds two pages, the proposing party shall also submit the  
8 document on a 3½-inch diskette compatible with WordPerfect 7.0 or higher.

9           **6.     Ex Parte Applications:** Counsel are reminded ex parte applications are solely  
10 for extraordinary relief. See Mission Power Engineering Co. v. Continental Casualty Co.,  
11 883 F. Supp. 488 (C.D. Cal. 1995). Applications which fail to conform with Local Rules 7-  
12 19 and 7-19.1, **including a statement of opposing counsel's position**, will not be  
13 considered. Any opposition must be filed not later than 24 hours after service. If counsel do  
14 not intend to oppose the ex parte application, counsel must inform the court clerk by  
15 telephone. The Court considers ex parte applications on the papers and usually does not set  
16 these matters for hearing. Counsel shall deliver a conformed courtesy copy of moving,  
17 opposition, or notice of non-opposition papers to the courtesy box outside the entrance to  
18 Courtroom No. 1, located on the Second floor of the U.S. Courthouse, 3470 Twelfth Street,  
19 Riverside, California. The courtroom deputy clerk will notify counsel of the Court's ruling  
20 or a hearing date and time, if the Court determines a hearing is necessary.

21           **7.     Applications or Stipulations to Extend the Time to File any Required**  
22 **Document or to Continue any Pretrial or Trial Date:** No stipulations extending  
23 scheduling requirements or modifying applicable rules are effective until and unless the  
24 Court approves them. Both applications and stipulations must be filed in advance of the date  
25 due and set forth:

26           (a)     the existing due date or hearing date as well as the discovery cutoff  
27 date, the last date for hearing motions, the pre-trial conference date and the trial date;  
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1 (b) specific, concrete reasons supporting good cause for granting the  
2 extension.

3 (c) whether there have been prior requests for extensions, and whether  
4 these were granted or denied by the Court.

5 **8. TROs and Injunctions:** Parties seeking emergency or provisional relief shall  
6 comply with Fed. R. Civ. P. 65 and Local Rule 65. The Court will not rule on any  
7 application for such relief for at least 24 hours after the party subject to the requested order  
8 has been served; such party may file opposing or responding papers in the interim. <sup>2</sup> The  
9 parties shall lodge a courtesy copy, conformed to reflect that it has been filed, of all papers  
10 relating to TROs and injunctions. The courtesy copy shall be placed in the courtesy box  
11 outside the entrance to Courtroom No. 1, located on the Second floor of the U.S.  
12 Courthouse, 3470 Twelfth Street, Riverside, California. All such papers shall be filed  
13 “loose” - - *i.e.*, not inside envelopes.

14 **9. Cases Removed From State Court:** All documents filed in state court,  
15 including documents appended to the complaint, answers and motions, must be refiled in  
16 this Court as a supplement to the Notice of Removal, if not already included. See 28 U.S.C.  
17 § 1447(a)(b). If the defendant has not yet responded, the answer or responsive pleading  
18 filed in this Court must comply with the Federal Rules of Civil Procedure and the  
19 Local Rules of the Central District. If a motion was pending in state court before the case  
20 was removed, it must be re-noticed in accordance with Local Rule 6-1.

21 **10. ERISA Cases:** Absent an agreed upon statement of facts, the court will not  
22 hear motions for summary judgment, but will hear motions to determine the standard of  
23 review and the scope of the administrative record. See Kearney v. Standard Insurance Co.,  
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26 <sup>2</sup> Local Rule 7-19.2 - Waiver of Notice. If the Judge to whom the application is made  
27 finds that the interest of justice requires that the ex parte application be heard without notice (which  
28 in the instance of a TRO means that the requisite showing under F.R.Civ.P 65(b) has been made)  
the judge may waive the notice requirement of L.R. 7-19.1.

1 175 F.3d 1084 (9th Cir. 1999). There will be a court trial (usually confined to oral  
2 argument) on the administrative record

3 **11. Status of Fictitiously Named Defendants:** This Court intends to adhere to  
4 the following procedures where a matter is removed to this Court on diversity grounds with  
5 fictitiously named defendants referred to in the complaint. (See 28 U.S.C. §§ 1441(a) and  
6 1447.)

7 (a) Plaintiff is normally expected to ascertain the identity of and serve  
8 any fictitiously named defendants within 120 days of the removal of the action to  
9 this Court.

10 (b) If plaintiff believes (by reason of the necessity for discovery or  
11 otherwise) that fictitiously named defendants cannot be fully identified within the 120-day  
12 period, an ex parte application requesting permission to extend that period to effectuate  
13 service may be filed with this Court. Such application shall state the reasons therefor, and  
14 may be granted upon a showing of good cause. The ex parte application shall be served  
15 upon all appearing parties, and shall state that appearing parties may comment within seven  
16 (7) days of the filing of the ex parte application.

17 (c) If plaintiff desires to substitute a named defendant for one of the  
18 fictitiously named parties, plaintiff first shall seek to obtain consent from counsel for the  
19 previously-identified defendants (and counsel for the fictitiously named party, if that party  
20 has separate counsel). If consent is withheld or denied, plaintiff may apply ex parte  
21 requesting such amendment, with notice to all appearing parties. Each party shall have  
22 seven calendar days to respond. The ex parte application and any response should comment  
23 not only on the substitution of the named party for a fictitiously named defendant, but on the  
24 question of whether the matter should thereafter be remanded to the Superior Court if  
25 diversity of citizenship is destroyed by the addition of the new substituted party. See 28  
26 U.S.C. § 1447(c)(d).

**12. Communications with Chambers:** Counsel shall not attempt to contact the Court or its chambers staff by telephone or by any other ex parte means, although counsel may contact the courtroom deputy, at (951) 328-4464, with appropriate inquiries. To facilitate communication with the courtroom deputy, counsel should list their facsimile transmission numbers along with their telephone numbers on all papers.

**13. Notice of this Order:** Counsel for plaintiff shall immediately serve this Order on all parties, including any new parties to the action. If this case came to the Court by noticed removal, defendant shall serve this Order on all other parties.

**14. Internet Site:** <sup>3</sup>Counsel are encouraged to review the Central District's Website for additional information. The address is "<http://www.cacd.uscourts.gov>".

IT IS SO ORDERED.

Dated: DATE

STEPHEN G. LARSON  
United States Magistrate Judge

<sup>3</sup> Copies of the Local Rules are available on our website at “<http://www.cacd.uscourts.gov>” or they may be purchased from one of the following:

Los Angeles Daily Journal  
915 East 1st Street  
Los Angeles, California 90012

West Publishing Company  
610 Opperman Drive  
Post Office Box 64526  
St. Paul, Minnesota 55164-0526

Metropolitan News  
210 South Spring Street  
Los Angeles, California 90012



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